

United States District Court

For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 MILLER *et al.*,

No. C02-02118 MJJ

12 Plaintiffs,

**ORDER DENYING DEFENDANT IBM'S
OBJECTIONS TO MAY 18 AND MAY 23,
2006 ORDERS OF MAGISTRATE JUDGE
JAMES**13 v.
14 INTERNATIONAL BUSINESS MACHINES
CORPORATION *et al.*,15 Defendants.
16 _____ /

17 Pending before the Court are Defendant International Business Machines Corporation's ("IBM")
18 Objections to Judge James's May 18 and May 23, 2006 Orders. In those Orders, Judge James denied
19 IBM's Motion to bar the testimony of Plaintiff Ralph Miller's expert witnesses, and denied IBM's
20 Motion for Reconsideration of that ruling. IBM now objects to Judge James's denial of their request
21 for exclusion, arguing that the ruling is inconsistent with the Court's prior Orders requiring Plaintiff to
22 provide expert discovery, and does not comply with the mandatory exclusion provisions of Federal
23 Rules of Civil Procedure 26(a)(2)(B) and 37(c)(1).

24 The Court has reviewed IBM's Motions that Judge James's addressed in her May 18 and 23
25 Orders, and has fully considered IBM's objections. The Court finds that IBM has failed to present any
26 persuasive reason causing the Court to overrule Judge James's denial of IBM's Motion. Particularly,
27 the Court agrees with Judge James's ruling that full exclusion of Plaintiff's expert witnesses is not
28 warranted. The Court further agrees that, based on Plaintiff's failure to comply with the Court's
discovery orders, limiting Plaintiff's use of expert testimony to information that was disclosed in their

1 reports is a reasonable sanction. Accordingly, the Court **OVERRULES** IBM's Objections (Doc. #551)
2 in their entirety.

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4 **IT IS SO ORDERED.**

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6 Dated: June 20, 2006

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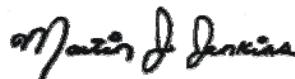
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MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE